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Examiner: Zeinab E. EL-Arini  
Group Art Unit: 1746

### REMARKS/ARGUMENTS

Claims 1-11 are pending in the application. In this Office Action, claims 1-11 stand rejected under 35 U.S.C. §112, ¶2, and 35 U.S.C. §103(a). Claims 1-11 stand provisionally rejected for alleged obviousness-type double patenting over claims 1-23 of Application Serial No. 10/713,305, and claims 1-5 stand provisionally rejected for alleged obviousness-type double patenting over claims 7 and 8 of Application Serial No. 10/713,304.

In this Amendment and Response, claims 1, 3-7, and 11 are canceled without prejudice. Independent claim 12 and dependent claims 13-20 are added. Claims 2 and 8-10 are amended for purposes of dependency, form, and clarification. Reconsideration and reexamination of the application is respectfully requested in view of the following remarks.

#### Claim Rejections - 35 U.S.C. §112, ¶2

Claims 1-11 stand rejected under 35 U.S.C. §112, ¶2, as allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. This rejection is respectfully traversed.

Independent claim 1 has been canceled without prejudice. New independent claim 12 has been added, from which the remaining claims in the application depend. New claims 12-20 are not indefinite under 35 U.S.C. §112, ¶2. Claims 3-7 and 11 are also canceled without prejudice, and the amendments of claims 2 and 8-10 render these claims not indefinite under 35 U.S.C. §112, ¶2.

For these reasons, claims 2, 8-10, and 12-20 are not unpatentable for indefiniteness. Applicants request the withdrawal of the rejection, and the allowance of claims 2, 8-10, and 12-20.

#### Claim Rejections-Obviousness-Type Double Patenting

Claims 1-11 stand provisionally rejected as unpatentable over claims 1-23 of Application Serial No. 10/713,305. This rejection is respectfully traversed.

As amended, the claims no longer raise any double patenting issues with respect to claims

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1-23 of Application Serial No. 10/713,305. According to the Office Action, the basis for the double-patenting rejection lay in the unclear nature of the claims. The amended claims of the current application are clear. A literal reading of the amended claims makes clear that they do not raise any double-patenting issues with the '305 application.

For these reasons, the amended claims are not unpatentable for obviousness-type double patenting. Applicants request the withdrawal of the rejection, and the allowance of amended claims.

Claims 1- 5 stand provisionally rejected as unpatentable over claims 7 and 8 of Application Serial No. 10/713,304. This rejection is respectfully traversed.

Claims 7 and 8 of Application Serial No. 10/713,304 describe a method establishing a rinse program in a dishwasher having upper and lower spray planes and a turbidity sensor incorporated into the inlet flow of the circulation pump and in communication with the spray planes. The method comprises alternately operating the upper and lower spray planes, measuring turbidity values associated with the upper and lower spray planes, deriving a difference value between the turbidity values, deriving parameters for the type and quantity of soil based on the turbidity and difference values, and establishing a rinse program based on the derived parameters.

As discussed above, claims 1 and 3-5 have been canceled without prejudice. Thus the rejection of these claims is moot. Claim 2 now describes determining the solubility of soil on dishes to be cleaned, and heating or not heating the rinse liquid. Nothing in claim 2 describes a dishwasher having upper and lower spray planes, alternately operating the upper and lower spray planes, measuring turbidity values associated with the upper and lower spray planes, deriving a difference value between the turbidity values, deriving parameters for the type and quantity of soil based on the turbidity and difference values, or establishing a rinse program based on the derived parameters. Claim 2 is patently distinct from claims 7 and 8 of Application Serial No. 10/713,304, and the process in each application is not functionally equivalent to the process in the other.

For these reasons, claim 2 is not unpatentable for obviousness-type double patenting. Applicants request the withdrawal of the rejection, and the allowance of claim 2.

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**Claim Rejections - 35 U.S.C. §103(a)**

Claims 1-11 stand rejected under 35 U.S.C. §103(a) as allegedly unpatentable over US Patent No. 3,888,269 to Bashark. The rejection is respectfully traversed.

As discussed above, claims 1, 3-7, and 11 are canceled without prejudice. Thus, the rejection of claims 1, 3-7, and 11 is moot. Notwithstanding the cancellation of claims 1, 3-7, and 11, amended claims 2, 8-10, and 12-20 are not unpatentable over Bashark '269.

Bashark '269 describes a turbidity sensor for a dishwasher wherein the degree of turbidity of the dishwashing liquid based upon outputs from the turbidity sensor is used to modify a generally standardized cleaning cycle comprising one or more generally standardized rinse cycles. Nothing in Bashark '269 even suggests determining the solubility of soil on dishes to be cleaned as a factor in modifying the cleaning cycle.

Claim 12, the only independent claim, calls for a method of cleaning dishes in a dishwasher comprising a rinse step where a rinse liquid is recirculated in the dishwasher and a cleaning step where a wash liquid is recirculated in the dishwasher. The method comprises determining the solubility of the soil on the dishes to be cleaned, and setting at least one operating parameter of the cleaning step based on the determined solubility. This is not disclosed in Bashark '269 in any way.

There is no reference in Bashark '269 to any purpose or desirability of determining the solubility of soil on dishes to be cleaned. Bashark '269 simply obtains turbidity readings from a turbidity sensor and utilizes an inferred level of turbidity to determine how the cleaning cycle should progress. There is nothing in Bashark '269 to even suggest that the process of utilizing the turbidity readings could in any way be improved by the invention described by Applicants in amended claims 2, 8-10, and 12-20.

For these reasons, claims 2, 8-10, and 12-20 are not unpatentable over Bashark '269. Applicants request the withdrawal of the rejection, and the allowance of claims 2, 8-10, and 12-20.

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### CONCLUSION

For the reasons discussed above, all claims remaining in the application are allowable.  
Early notification of allowability is respectfully requested.

If there are any remaining issues which the Examiner believes may be resolved in an interview, the Examiner is respectfully invited to contact the undersigned.

Respectfully submitted,  
CLEMENS JUNG ET AL.

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